

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

CHARLES CORNET NAPPER,

Plaintiff,

v.

HEATHER TIDWELL, et al.,

Defendants.

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No. 1:23-CV-00084 SPM

OPINION, MEMORANDUM AND ORDER

Before the Court is plaintiff Charles Napper's post-dismissal motion for appointment of counsel. [ECF No. 9]. After review of the record in this action, plaintiff's post-dismissal motion for counsel will be denied.

Plaintiff, a Missouri inmate incarcerated at Southeast Correctional Center (SECC), filed the instant action pursuant to 42 U.S.C. § 1983 against Nurse Heather Tidwell and Corizon on May 19, 2023. [ECF No. 1]. On September 18, 2023, the Court reviewed plaintiff's complaint pursuant to 28 U.S.C. § 1915 for frivolousness, maliciousness and for failure to state a claim and ordered plaintiff to show cause as to why he had failed to exhaust his administrative remedies with respect to his claims against defendants. [ECF No. 6]. When plaintiff failed to timely respond to the Order to Show Cause, the Court dismissed this action, without prejudice, pursuant to Federal Rule of Civil Procedure 41(b), on October 26, 2023, due to plaintiff's failure to comply with a Court Order. [ECF No. 7].

Plaintiff filed a post-dismissal motion for appointment of counsel on May 9, 2024. [ECF No. 9]. He claims that he is currently incarcerated in the Disciplinary Segregation Unit and in need of someone to represent him in this dismissed action. Although plaintiff indicates that he does not

have access to paper and envelopes in Disciplinary Segregation, he has written a six-page letter seeking to explain his reasoning for failing to adequately exhaust his administrative remedies prior to filing his lawsuit in federal court. It also appears that plaintiff would like to reopen the present matter at some juncture in the future.

Because this matter was closed approximately five months ago and it does not appear that plaintiff fully exhausted his remedies prior to filing his lawsuit in federal court, the Court will decline to assign plaintiff counsel or reopen the present matter. Plaintiff may, of course, choose to file a new lawsuit, and the Court will provide him with a Court-provided form for doing so.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel, or alternatively to reopen the present matter, [ECF No. 9] is **DENIED**.

IT IS FURTHER ORDERED that an appeal of this Order would not be taken in good faith.

IT IS FURTHER ORDERED that the Clerk shall provide plaintiff with a Court-form for filing a Prisoner Complaint.

Dated this 16th day of May, 2024.

A handwritten signature in black ink, appearing to read "Henry Edward Autrey", is written over a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE